

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Review of the Decision of the)	
Universal Service Administrator by)	
)	
Carrizozo Municipal Schools	)	File No. SLD-434194
Carrizozo, New Mexico)	
)	
Florence Unified School District #1	)	File No. SLD-423157
Florence, Arizona)	
)	
Glen Carbon Centennial Library	)	File No. SLD-433621
Glen Carbon, Illinois)	
)	
Glenn County Office of Education	)	File Nos. SLD-428288, 430120,
Willows, California	)	432923
)	
Gorman Learning Center	)	File No. SLD-433523
Redlands, California)	
)	
Grainfield-Wheatland Unified School District No. 292	)	File No. SLD-421312
Grainfield, Kansas)	
)	
Lavalette Board of Education	)	File No. SLD-430991
Lavalette, New Jersey)	
)	
Panhandle Community Unit School District No. 2	)	File No. SLD-390055
Raymond, Illinois)	
)	
Penncrest School District	)	File No. SLD-405879
Saegertown, Pennsylvania)	
)	
School District of Lodi	)	File No. SLD-396473
Lodi, Wisconsin)	
)	
S&S Consolidated Independent School District	)	File No. SLD-407655
Sadler, Texas)	
)	
Troup County Board of Education	)	File No. SLD-397429
LaGrange, Georgia)	
)	
White Bear Lake Area Public Schools	)	File No. SLD-432878
White Bear Lake, Minnesota)	
)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism)	

ORDER**Adopted: April 13, 2005****Released: April 13, 2005**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Review filed by Carrizozo Municipal Schools, Carrizozo, New Mexico; Florence Unified School District #1, Florence, Arizona; Glen Carbon Centennial Library, Glen Carbon, Illinois; Glenn County Office of Education, Willows, California; Gorman Learning Center, Redlands, California; Grainfield-Wheatland Unified School District No. 292, Grainfield, Kansas; Lavalette Board of Education, Lavalette, New Jersey; Panhandle Community Unit School District No. 2, Raymond, Illinois; Penncrest School District, Saegertown, Pennsylvania; School District of Lodi, Lodi, Wisconsin; S&S Consolidated Independent School District, Sadler, Texas; Troup County Board of Education, LaGrange, Georgia; and White Bear Lake Area Public Schools, White Bear Lake, Minnesota (collectively, Petitioners).¹ The Requests for Review seek review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Consistent with precedent, we deny the Requests for Review. To the extent that the Petitioners request a waiver of the Commission's rules, we deny those requests as well.²

2. Each of SLD's decisions at issue in the Requests for Review involves denial of funding on the grounds that the Petitioners filed all or part of their Funding Year 2004 FCC Form 471 application after the close of the filing window deadline. In the Requests for Review, Petitioners either assert that they believe the full FCC Form 471 application was filed within the filing window or concede that they filed the FCC Form 471 application after the close of the filing window.³ After review of the record, we find Petitioners did not file complete FCC Form 471 applications by the close of the filing window.

¹Letter from Wes Corley, Carrizozo Municipal Schools, to Federal Communications Commission, filed November 22, 2004; Letter from Tim Leedy, Florence Unified School District #1, to Federal Communications Commission, filed May 14, 2004; Letter from Anne Hughes, Glen Carbon Centennial Library, to Federal Communications Commission, filed August 26, 2004; Letter from Joni Samples, Glenn County Office of Education, to Federal Communications Commission, filed November 9, 2004; Letter from Nancy Long, Gorman Learning Center on behalf of Lifeline Education Charter School, to Federal Communications Commission, filed November 8, 2004; Letter from Dennis Engles, Grainfield-Wheatland Unified School District No. 292, to Federal Communications Commission, filed October 12, 2004; Letter from Patricia Christopher, Lavalette Board of Education, to Federal Communications Commission, filed July 27, 2004; Letter from Kathy Johnson, Panhandle Community Unit School District No. 2, to Federal Communications Commission, filed September 1, 2004; Letter from Thomas Baldwin, Penncrest School District, to Federal Communications Commission, filed October 13, 2004; Letter from Diane Pertzborn, School District of Lodi, to Federal Communications Commission, filed August 23, 2004; Letter from Jennita Jones, S&S Consolidated Independent School District, to Federal Communications Commission, filed September 8, 2004; Letter from Jane Logan, Troup County Board of Education, to Federal Communications Commission, filed September 28, 2004; Letter from Mary Vaske, White Bear Lake Area Public Schools, to Federal Communications Commission, filed October 25, 2004 (collectively, Requests for Review). Any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

²47 C.F.R. § 1.3.

³*Id.* The deadline for Funding Year 2004 applications was February 4, 2004. See SLD website, <www.sl.universalservice.org/whatsnew/2003/112003.asp>.

3. Consistent with precedent, we deny the Requests for Review. The Commission's rules allow the Administrator to implement an initial filing period for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.⁴ We have strictly and consistently enforced the filing window deadlines for FCC Form 471 applications.⁵ Allowing applicants to file incomplete or late applications, and to have those applications considered timely, would be unfair to the applicants who diligently filed their complete applications in a timely fashion.⁶ Because we find that the Petitioners' FCC Form 471 applications were filed outside of the window, we deny the Requests for Review.

4. To the extent that Petitioners additionally ask us to waive our rules in this instance, we also deny their requests. Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.⁷

5. We find that the Petitioners have not demonstrated special circumstances to warrant waiver. The Commission has strictly enforced filing deadlines, allowing waivers of deadlines only in very limited and compelling situations.⁸ In light of the large number of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures, including filing deadlines.⁹ Hence, employee illness, staff failure to perform a job properly, inclement weather, misunderstanding of the rules, or misinformation received from SLD or a third party does not relieve applicants of their responsibility to

⁴Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis. Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules. 47 C.F.R. § 54.507(c) and (g).

⁵See *Petitions for Waiver or Reconsideration of Sections 54.706, 54.709, and/or 54.711 of the Commission's Rules, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Seventeenth Order on Reconsideration, 15 FCC Rcd 20769, 20783, para 28 (1999). See also *Request for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 7383, 7389, para. 13 (Wireline Comp. Bur. 2002); *Request for Review by Wilmington Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-254818, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 12069 (Wireline Comp. Bur. 2002); *Request for Review by South Barber Unified School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-158897, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 18435 (Com. Car. Bur. 2001).

⁶Program procedures for Funding Year 2004 require that FCC Form 471 Block 6 certifications be postmarked no later than February 4, 2004, in order for the FCC Form 471 to be considered filed in a timely manner. See Funding Year 2004 FCC Form 471 Instructions.

⁷47 C.F.R. § 1.3. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸See *Request for Waiver by Stephen-Argyle Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-228975, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15879, 15880-81, paras. 4-5 (Com. Car. Bur. 2001).

⁹See *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612-13, para. 8 (Com. Car. Bur. 2000) ("In light of the thousands of applications that SLD reviews and process each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

comply with the Commission's rules and procedures.¹⁰ Further, the assertion that denial of an application may have a detrimental impact on an applicant does not create special circumstances or suggest particular facts that warrant a waiver of the Commission's rules.¹¹ In keeping with our prior decisions, we determine that the Petitioners here have not demonstrated the special circumstances necessary for a waiver of our rules.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review filed by Carrizozo Municipal Schools, Carrizozo, New Mexico, on November 22, 2004; Florence Unified School District #1, Florence, Arizona, on May 14, 2004; Glen Carbon Centennial Library, Glen Carbon, Illinois, on August 26, 2004; Glenn County Office of Education, Willows, California, on November 9, 2004; Gorman Learning Center, Redlands, California, on November 8, 2004; Grainfield-Wheatland Unified School District No. 292, Grainfield, Kansas, on October 12, 2004; Lavalette Board of Education, Lavalette, New Jersey, on July 27, 2004; Panhandle Community Unit School District No. 2, Raymond, Illinois, on September 1, 2004; Penncrest School District, Saegertown, Pennsylvania, on October 13, 2004; School District of Lodi, Lodi, Wisconsin, on August 23, 2004; S&S Consolidated Independent School District, Sadler, Texas, on September 8, 2004; Troup County Board of Education, LaGrange, Georgia, on September 28, 2004; and White Bear Lake Area Public Schools, White Bear Lake, Minnesota, on October 25, 2004, respectively, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁰*Request for Waiver by Duncan Public Library, et al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325536, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22430, 22431, para. 3 (Wireline Comp. Bur. 2003); *Request for Waiver by Dermott Special School District, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-252777, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5091, 5093, paras. 3-5 (Com. Car. Bur. 2002). See also *Request for Waiver by Art In Context, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-262426, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5087, 5089, paras. 6-8 (Com. Car. Bur. 2002); *Request for Waiver by Midland School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-269321, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 17920, 17922-23, paras. 5-6 (Com. Car. Bur. 2001); *Request for Review by Homer Community Consolidated S.D. 33C, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.70C.03-10-00.09700014, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 9353, 9354, para. 5 (Com. Car. Bur. 2001).

¹¹*Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521, 21528, para. 18 (2003).